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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,444	01/23/2001	Hans-Ueli Roeck	33270	2422

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EXAMINER

BARNIE, REXFORD N

ART UNIT

PAPER NUMBER

2643

DATE MAILED: 09/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**09/767,444**

Applicant(s)  
**HANS-UELI ROACK**

Examiner  
**Rexford Barnie**

Art Unit  
**2643**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jan 23, 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**REXFORD N. BARNIE**  
**PATENT EXAMINER**

*R. Barnie*

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 10 6) ☐ Other:

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## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: the disclosure should describe whatever feature is being described without referring to the claims because the disclosure serves to support the claims. Thus, the necessary changes should be made to (pages 1-2 and so on) of the disclosure. Appropriate correction is required.

### *Claim Rejections - 35 U.S.C. § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by Leysieffer et al.. (US Pat# 6,128,392).

Regarding claim 1, Leysieffer et al. teaches a hearing aid with an electro-mechanical output transducer for receiving time oriented electrical signals in addition to signals that are acoustic on the input side (microphone) in (see figs. 5-6, column 1 lines 7-27, columns 3-4 and

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column 7) wherein acknowledgments can be received in addition to the fact that the user can control certain parameters of the hearing aid via a control device.

Regarding claim 2, see the explanation as set forth in the rejection of claim 1.

***Claim Rejections - 35 U.S.C. § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leysieffer et. (US Pat# 6,128,392) in view of Anderson (US Pat# 5,721,783, **cited by applicant**) or Krokstad et al. (US Pat# 5,276,739) or Mansgold (US Pat# 4,425,481).

Regarding claims 3, 5, 6, leysieffer fails to teach in detail the means in which one would control a user's hearing.

Anderson teaches a hearing aid means which can be controlled via voice recognition or by a display interface (see column 20 line 52-column 21, column 23 and so forth). One can program a hearing through a wireless interface according to Anderson.

Krokstad teaches a hearing aid means which can be controlled by a user through an interface (see figs. And disclosure).

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Mansgold teaches a hearing aid device which can be controlled based on pre-stored programmed parameters (see disclosure).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of the secondary references thus making it possible to control a hearing aid based on pre-stored parameters suitable for a hearing aid user based on the severity of one's hearing impairment.

Regarding claim 4, The combination including Anderson teaches the ability to receive wireless verbal messages including warning, music and so forth at a distance from a remote processor. Furthermore, the combination teaches being able to use a speakerphone system in (see column 24 lines 54-55).

Regarding claim 7, Leysieffer et al. teaches a hearing aid with an electro-mechanical output transducer for receiving time oriented electrical signals in addition to signals that are acoustic on the input side (microphone) in (see figs. 5-6, column 1 lines 7-27, columns 3-4 and column 7) wherein acknowledgments can be received in addition to the fact that the user can control certain parameters of the hearing aid via a control device. Leysieffer fails to teach in detail the claimed memory structure.

Anderson teaches a hearing aid means which can be controlled via voice recognition or by a display interface (see column 20 line 52-column 21, column 23 and so forth). One can program a a hearing through a wireless interface according to Anderson.

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Krokstad teaches a hearing aid means which can be controlled by a user through an interface (see figs. And disclosure).

Mansgold teaches a hearing aid device which can be controlled based on pre-stored programmed parameters (see disclosure).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of the secondary references thus making it possible to control a hearing aid based on pre-stored parameters suitable for a hearing aid user based on the severity of one's hearing impairment.

Regarding claims 8-13, The combination including Anderson teaches being able to receive external signal source including that from a computer terminal, wireless terminal, music, control parameters via voice commands/recognition and so forth in (see columns 20-26).

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communication from the examiner should be directed to REXFORD BARNIE whose telephone number is (703) 306-2744. The examiner can normally be reached on Monday through Friday from 8:30 to 6:00p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached on (703) 305-4708.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

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or faxed to (703) 872-9314 and labeled accordingly (Please label

**“PROPOSED/INFORMAL” or “FORMAL”**).

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 306-0377.

**REXFORD N. BARNIE**  
**PATENT EXAMINER**

*RBarnie*

Rexford Barnie  
Patent Examiner  
RB 09/08/02